

Serial No. 10/634,912
Examiner: AVILA, Stephen P.
Art Unit 3617

Page 5 of 7

REMARKS

By this amendment, claims 1, 3, 4, 6-8, 11, 16 and 23 have been amended. Claim 32 has been added. No new matter has been added. Claims 2, 10 and 24 have been cancelled. Accordingly, claims 1, 3-9, 11-23, 25-32 are now pending in the application. Reconsideration and allowance of all of the claims are respectfully requested in view of the foregoing amendments and the following remarks.

Regarding Office Action Paragraph 2 – 35 U.S.C. 102(b) – Courtney US Pat. No. 4,213,413

Examiner has rejected claim 1-9, 20, and 22 under 35 USC 102(b) as being clearly anticipated by Courtney.

In response, Applicants have amended claim 1 to recite that "the towing apparatus comprises a curved towing bar having a non constant radius, two ends and an apex, with each end secured to at least one of the deck and the hull on opposed sides of the longitudinal center line and the apex being positioned rearwardly of the two ends with respect to the hull and generally aligned with the longitudinal center line." As most of the subject matter was previously present in claim 2, claim 2 has been canceled.

Courtney teaches a water ski tow assembly consisting in of semi-circular rail 6 connected at its ends to a boat. The semi-circular rail disclosed by Courtney has a constant radius. This constant radius ensures that the rope will be in line with the center of the semi-circular rail as the ski rope moves along the rail. Thus, the force generated by the rope will always be applied toward the same location on the boat. The present application discloses, *inter alia*, a rail having a non constant radius. The rope will therefore not always be in line with the center of the rail curve's radius. This way the force applied on the boat will be applied toward a different location depending on the angle of the rope in respect to the boat longitudinal axis. Courtney therefore does not disclose, suggest, nor teach the subject matter of amended claim 1.

Dependent claims 3-9 recite additional features of the invention and are therefore believed to be allowable for the same reasons discussed above with respect to claim 1 and for the additional features recited therein.

Regarding Office Action Paragraphs 3 and 4 – 35 U.S.C. 103(a) – Courtney & Jennings

Examiner has rejected claims 10, 11, 15 and 16 under 35 USC 103(a) as being unpatentable over Courtney in view of Jennings (US Pat. No. 4,893,577).

Applicants realized that there was problem with the claim dependencies and have cancelled claim 10. Claim 11 has been rewritten in independent form including some of the subject matter of deleted claim 10. These changes were made to fix the aforementioned claim dependency problem and to more precisely define the claimed invention. No surrender of subject matter is intended thereby.

As was previously mentioned, Courtney teaches a water ski tow assembly consisting of a semi-circular rail connected at its ends to a boat. Jennings teaches a "tow rope pylon with rotatable bushing (title)". Bushing 22 is advantageously formed from a self-lubricating polymeric bearing material such as nylon or high density polyethylene (column 2, lines 34-36). Jennings' bushing 22 receives the rope when the boat is pulling a skier. The invention of Jennings is meant to reduce friction between the tow rope and the pylon(10). This is

Serial No. 10/834,912
Examiner: AVILA, Stephen P.
Art Unit 3617

Page 6 of 7

unrelated to the present invention where the pylon itself may have a laterally moveable towing point with respect to the longitudinal centerline of the watercraft.

Specifically, Claim 11 recites, *inter alia*, "a towing apparatus formed as a flexible upright member extending upwardly from at least one of the deck and the hull, the towing apparatus has a towing point from which a tow line may extend, flexing of the upright member moving the towing point in space." Therefore, whether or not it is proper to combine the teachings of Courtney with those of Jennings (and expressly reserving the right to argue thereagainst in the future), the combination thereof does not disclose all of the elements of claim 11. Such combination cannot render claim 11 obvious.

Dependent claims 12-1 and 18 recite additional features of the invention and are therefore believed to be allowable for the same reasons discussed above with respect to claim 1 and for the additional features recited therein.

Regarding Office Action Paragraph 5 – 35 U.S.C. 103(a) – Courtney & Kobayashi

Examiner has rejected claims 17-19 and 21 under 35 USC 103(a) as being unpatentable over Courtney in view of Kobayashi (US.Pat. No. 5,406,904).

Claims 17-19 and 21 all depend, either directly or indirectly, from claim 1. Whether or not it is proper to combine the teachings of Courtney with those of Kobayashi (and expressly reserving the right to argue thereagainst in the future), Kobayashi clearly does not overcome the deficiencies of Courtney with respect to amended claim 1. The combination cannot therefore render any of the present claims obvious.

Regarding Office Action Paragraphs 6 and 7 – 35 U.S.C. 103(a) – Courtney, Badley & Kobayashi

Examiner has rejected claim 23 under 35 USC 103(a) as being unpatentable over Courtney in view of Badley (US Pub. No. 2001/0006037) and claims 29 and 31 further in view of Kobayashi (US Pat. No. 5,406,904). Examiner objected to claims 24-28 and 30 as being dependent on a rejected base claim, but indicated that they would be allowable if written in independent form.

In response applicant has amended claim 23 to include the limitation of claim 24, and has cancelled claim 24 accordingly. Claim 24 is therefore believed to be allowable. Claims 25-32 are dependent, either directly or indirectly, from claim 23 and themselves recite additional features of the invention. They are therefore believed to be allowable for the same reasons discussed above with respect to claim 23 and for the additional features recited therein.

Serial No. 10/834,812
Examiner: AVILA, Stephen P.
Art Unit 3617

Page 7 of 7

In view of the above amendments and remarks, the Applicant respectfully submits that all of the currently pending claims are allowable, and that the entire application is in condition for allowance.

Should the Examiner believe that anything further is desirable to place the application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



Jonathan D. Cutler, Reg. No. 40,576
Attorney for the Applicant
Tel: (450) 461-7700
Fax: (450) 461-7833